

# THE MARTHA'S VINEYARD COMMISSION

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MINUTES OF MARCH 9, 1989

## MARTHA'S VINEYARD COMMISSION MEETING

James Young, Chairman of the Land Use Planning Committee (LUPC), made the following opening statement prior to opening the public hearing to explain the process for tonight's hearing because of the special nature of this proposal: What we are looking at is a proposal for 16 lots submitted to the Town of West Tisbury abutting land in Chilmark. Both the West Tisbury and Chilmark parcels were subject of previous DRIs. In the staff notes you have the language of the previous decision on this West Tisbury parcel. The new submittal is 16 lots, at the time it was submitted he explained to the West Tisbury Planning Board that what he intended to do was to begin negotiations with the West Tisbury Planning Board and, at some time, with the Chilmark Planning Board in order to arrive at a plan to be presented to the Martha's Vineyard Commission that the Towns would support. This submittal was of a definitive plan, was a formal submittal, and therefor was referred to the MVC and scheduled for a public hearing. The aforesaid negotiations have begun with some positive results from it. As yet there still is not a plan submitted for Chilmark although the stated intent of the applicant is to do so. Mr. Adams presentation is going to touch very briefly on this 16 lot submittal. It is going to indicate what the current plan being discussed by the West Tisbury Planning Board and the applicant is, which is a 9 lot plan. The point of this meeting is to inform Commissioners and the public on the current status of this proposal, the direction in which it is headed, and for the benefit of the applicant to field any sort of questions regarding the response of the Commissioners to the current state of the negotiations. I think it would be premature to get into details and I have asked staff, and Mr. Adams has agreed, not to get into a highly detailed staff analysis at this point. That will come later when there is a complete submittal in Chilmark and a complete submittal in West Tisbury, which will then be the subject of comprehensive Commission review.

The Martha's Vineyard Commission held a public hearing on Thursday, March 9, 1989 at 8:00 p.m. at the Commission's offices, Olde Stone Building, New York Avenue, Oak Bluffs, MA regarding the following Development of Regional Impact (DRI):

Applicant: James H. Crocker, Jr., Trustee  
Mill Brook Trust  
Box 755  
Osterville, MA 02655

Location: Off Old Farm Road and West Tisbury Town Line  
West Tisbury, MA

Proposal: Subdivision of land qualifying as a DRI since the proposal is on property which has been the subject of a previous DRI and land is in contiguous ownership of greater than 30 acres.

Mr. Young then read the Mill Brook Public Hearing Notice, opened the hearing for testimony, described the order of the presentations for the hearing, and introduced Mark Adams, MVC Staff, to make his presentation.

Mr. Adams used wall displays to make general reference to issues and topics. His first reference was to the 16 lot plan that was submitted to West Tisbury. The other plans on the front board are working concepts, which I will describe later, that are being discussed in LUPC and with Town Boards. He used displays to show the context of the general area, depicting access, DCPC boundaries, and general topography of the site. Regarding access he pointed out Middle Road, North Road, Tea Lane, and Old Farm Road. He showed the technical end of Old Farm Road, beyond that is what has been referred to as Rothwoodland Lane, which is drivable and is commonly used to connect back up to North Road. He showed the option parcel in Chilmark which the applicant can provide access easement for the southern portion of the Chilmark parcel. Mr. Adams noted several large unsubdivided parcels of land near this area. The maps also denoted the lots with conservations restrictions, the trails, and the wetlands boundaries. He briefly went through the staff notes. He called attention to the missing figures in the staff notes denoted as N/A, not available, and stated this is because the current concepts under discussion are not developed sufficiently to give us all the information. The concepts is for a total of 145 acres on both parcels and includes 22 lots, 9 in West Tisbury and 13 in Chilmark. Those are buildable lots. There is a general list of acreage of wetlands and other important features in the staff notes. The wetland and some of the surrounding area has been identified as important habitat by the State Natural Heritage Program in correspondence, particular with respect to rare plants. Also provided in the staff notes is a description of the main access roads; zoning for the area; overlay districts; subdivision road regulations; Board of Health requirements; soils; watershed; site

description; vegetation/habitat quality including noteworthy plant communities; wetlands; proposed site treatment; open space provisions; town open space goals; trails; ancient land uses; municipal impacts based on the 22 lot subdivision plans regarding population, schools, traffic, solid waste, road runoff and septic nitrogen loading, fire, police and emergency access; chronology of the proposal; and the following concerns for further discussion: access, safety and maintenance; wetlands; natural habitat; endangered species; affordable housing; municipal impacts; historic resources; DCPCs; trail maintenance; impact on abutting uses; traffic and other issues. Correspondence was summarized from the following people: Jennifer Lander, Chilmark Town Officers Clerk, dated January 26, 1989; Virginia Jones, West Tisbury Planning Board, dated February 13, 1989; Jennifer Lander, dated February 23, 1989; and a CC: of a letter from Bruce Sorrie, Mass. Natural Heritage Program, dated December 20, 1988.

At this point, Mr. Young, read 2 pieces of correspondence received for the record after the staff notes were completed which are summarized as follows: From: James Crocker, Jr., and Joseph P. Clair, applicants, dated March 9, 1989. To clarify issues raised since the 16 lot subdivision plan was filed in West Tisbury as follows: A. 16 lot plan filed 10/05/88, after negotiations an 11 lot plan was produced for review. B. West Tisbury referred the 16 lot plan to MVC 11/04/88. MVC discussed need for new commissioner to be present before public hearing. LUPC discussions were held with West Tisbury and Chilmark Planning Board attendance. Incorporating ideas from said meetings a 9 lot West Tisbury and 13 lot Chilmark plans, with Chilmark incorporating access over the "option piece" was produced. C. Discussion with West Tisbury concerning outside professional engineer to interpret EIS. Closing statement that "Mill Brook Trust is committed to work with the Towns of West Tisbury and Chilmark and the Martha's Vineyard Commission to produce sound aesthetics planning of the land. FROM: E.N. Woods, dated March 6, 1989. Received public hearing notice, unable to attend. Primary concern is the very possible contamination of water in Mill Brook, due to its proximity and down grade location from the proposed development. Also plant and animal life in the adjacent wetlands would be seriously threatened. Access to the area is limited at best and increased vehicular traffic could create undesirable congestion, pollution and problems for required public serve in an emergency. Hopes MVC and Planning Boards will takes these and other points under serious consideration when examining any proposal for subdivision land forming the natural watershed of any water on M.V. (All correspondence is available in its entirety in the DRI file.)

Mr. Adams continued with his presentation by stating that the Chilmark plan is not final but is shown to give you a general idea of the access easement, which he explained. The two 9 lot West Tisbury Plans have some similarities such as the general location of the access, the looping or cul de sac subdivision road, and the hydrant lot location. The main difference is the lot configurations and the large wetland lot in one plan. Mr. Adams then answered questions from the Commissioners.

Mr. Geller, Commissioner, asked for a discussion about the litigation concerning the previous decision. Ms. Borer, Executive Director, responded that the decision is the subject of the applicant's complaint regarding the Chilmark parcel of land. Mr. Geller asked what the progress of the litigation was? Ms. Borer responded that there had been no submittal to the Chilmark Planning Board as a result of the litigation. There were 3 counts, on 2 counts there has been no movement, but the 3rd there has been. This count contends that the Town Board is required to act within its own time frame and dealt with the jurisdiction of the Commission to toll the Town's clock. The judge did rule in our favor but the applicant has appealed this decision. Mr. Geller then asked if there has been any movement to freeze the litigation during this discussion to save both applicant and Commission legal fees? Discussion on this subject follows under questions to the applicant.

Mr. Ewing, Commissioner, asked how the change in zoning from 3 to 5 acres would affect this subdivision? Mr. Adams responded the 5 acre zoning change was in Chilmark and this 16 lot plan is based on the 3 acre zoning in West Tisbury. Mr. Ewing then asked, concerning open space, the staff notes indicate continued access to Wascosim's Rock with restricted public access and car pull outs. What is meant by restricted access? Mr. Adams responded it must be discussed with the applicant. The main points of the DCPC are that the top ridge is a no build zone, the area around is buildable only with special permit. One of these plans has no building envelopes in the DCPC, the other has 2 within the DCPC boundaries.

Mr. Jason, Commissioner, asked if anyone could show him the location of the Land Bank purchase from Mrs. Hill? Mr. Frank Dunkl, from the audience, explained the location in relation to his property and Mr. Adams showed this on the wall map.

Mr. Ewing asked about the access. Which town is the option piece in? Mr. Adams responded Chilmark to access the southern Chilmark lots and as currently presented the option piece would remain in the current ownership with access easements provided. Mr. Ewing then asked if the remaining lots would be accessed by Old Farm Road and the Roth Woodlands lane? Mr. Adams responded no, the applicant has indicated that access would be on Old Farm Road only, however he does have Land Court access options to Roth Woodland Lane, as do many others who utilize this as a shorter route to North Road. The desire is to use the option piece with access easement to alleviate possible use of the Roth Woodlands lane since it is inadequate to serve a subdivision of any size. Mr. Ewing then asked if there aren't still unbuilt lots here that would have access rights? Mr. Adams responded yes there are a number of unbuilt lots.

When there were no further questions from the Commissioners, Mr. Young called on the applicant to make his presentation.

Mr. Crocker stated that by reading the letter I submitted today you have already touched on a few of the things we have been working towards for the past couple of months. Both West Tisbury and Chilmark have put a lot of energy into these plans and we are starting to make some progress. The plan for West Tisbury is for a 9 lot subdivision. One notable difference in the two 9 lot plans is the location of the first house and how it relates to the initial view of the subdivision, in one the house is set back more and becomes less visible. The Chilmark plan is now for a 13 lot subdivision and we have moved some of the lots. There was discussion of access and the option piece. Since it is almost equi-distant from the alternative access it might direct traffic toward the Tea Lane direction. There was some discussion about using this access for all of the traffic. We met with LUPC Monday, unfortunately Town Board members had earlier meetings to arrange for our meetings later that night, so it was just the LUPC and ourselves. Later that night we attended a meeting held at the West Tisbury Town Hall, Chilmark was in attendance, less a couple members, and quite a few of the LUPC members were there. It was obvious to me at Monday's meeting that the issues were similar to those discussed in the past. The main difficulty seems to be coming up with a physical number of lots that the Planning Boards would like to see. He stated that when that meeting ended all that had been discussed at length was the Tea Lane issues, no numbers were given for an overall plan and no further meetings have been scheduled. He stated he does feel there is a lot room for work on the Chilmark side and that they are more than willing to work things out. Mr. Crocker then answered questions from the Commissioners.

Mr. Geller asked if the applicant has current litigation concerning the denial of the Commission on the previous plan? Mr. Crocker responded yes. Mr. Geller then asked, you are proposing to come to the Commission at a later date with a plan that will supersede your previous plan and in addition will have the Chilmark plan, is that correct? Mr. Crocker stated that I probably wouldn't use your language but the idea is very sound. Mr. Geller stated that considering the cost of litigation it would seem the better part of wisdom to hold this in abeyance. He then asked if the counsel for the Commission and the applicant could meet to discuss possible abeyance? Mr. Crocker suggested that he meets with staff first to work out a period of meetings and a time table for said meetings, agree to follow this time table, and then counsel could be approached individually to avoid the cost of our counsel meeting together. Mr. Geller stated that he gathers from your review that there have been no future meetings scheduled, why is that? Mr. Crocker responded that this application was filled in October and here in November, in reality we are already 150-160 days out, and obviously it costs me money continually. So I, in an attempt to expedite this process, would hopefully bring everyone to the table. My proposal would give us a chance to map out meetings. I can be assured that the meetings would be in a timely fashion. Mr. Geller stated that the MVC cannot designate meetings dates for West Tisbury and Chilmark officials. Mr. Crocker stated that what the suit seemingly is saying is that the

times have tolled in each of the 2 towns. So really, we have approval by the Towns but not by the Martha's Vineyard Commission. If you look at it in that regards, we have a 16 lot and a 15 lot approval, then we are looking at a 31 lot subdivision that we need to have a hearing on because it is a DRI and the MVC has to vote on it. If we work to an end that is a number suitable to the environment and to ourselves and come away with a comfortable number then what we do is ask the Boards to amend the approval. It is difficult for the MVC and myself to get the 2 towns boards together. Therefore it might be advisable to have meetings with the Commission to draft a period of meetings and a direction in which to proceed and then the Commission could meet with the 2 boards and work out a schedule and get directions from the boards and then have the Commission negotiate these with us.

Mr. Jason, Commissioner, stated that, as he recalls, this project was denied because we couldn't see how both parcels meshed. Now we have a single parcel again, which has nothing to do with us, it is the applicant who has chosen not to bring both parcels in. Mr. Crocker stated that is an oversimplification. He stated that when you made that clear to us the first time we submitted a preliminary on the West Tisbury side. One was a definitive plan and one was a preliminary plan. The two pieces were there, it was a submission with the West Tisbury Town and was in front of you for review. The LUPC didn't accomplish enough, I guess, on the West Tisbury side to feel comfortable to recommend it as it stood a 13 lot subdivision. You immediately jumped up and thought it should be handled as one so, hence, no side until both sides. Mr. Jason stated that I guess we agreed on the facts. Mr. Crocker stated that the facts are that both submissions were in place. Mr. Jason then asked why both plans aren't in place today? Mr. Crocker responded because of the courts. Mr. Jason stated that perhaps this is best resolved by the courts in that case.

When there were no further questions for the applicant Mr. Young called on Town Board comment.

Virginia Jones, as member of the West Tisbury Planning Board. She also happens to own a piece of land that abuts the Chilmark portion, however, she isn't an abutter to the West Tisbury portion. She gave a chronology of the events leading up to this public hearing and an explanation of her role in these events as a private citizen and abutter to the Chilmark portion and in her capacity as Chairman of the West Tisbury Planning Board. When Mr. Crocker attended the LUPC meeting on March 6th, we were here, we waited an hour for the applicant and had to leave to attend another meeting. We didn't have any input into that discussion. We did meet with Mr. Crocker later that evening with members of the Chilmark Planning Board, where Mr. Crocker and Mr. Barbini informally introduced sketches for proposed subdivision of the Chilmark portion of the property. I refrained from the deliberations due to a possible conflict. Tonight I will address factual information on the process and David Douglas will present the concerns or opinion of the Planning Board to you. When Mr. Crocker presented his application on the 5th of October, 1988, they submitted

a number of pieces of information along with their application. One of which was the definitive plan for the 16 lot subdivision which I will remind you once again is the only formal submittal that is before any board even though other definitive proposals have been discussed. This plan was accompanied by an Environmental Impact Statement (EIS) and a signed MVC DRI checklist asking to be referred to the Commission. This was accepted by the MVC on November 2, 1988 although the West Tisbury Planning Board continued discussion with Mr. Clair and Mr. Crocker about the proposal. The Environmental Impact Statement that was submitted by the applicant is quite general in nature and does not address many issues of concern and is not the independent analysis required by the West Tisbury's Subdivision Rules and Regulations: "The scope of the Environmental Impact Statement shall be determined by the Planning Board. The Board shall specify in writing whether such impact statement should address all or only some of the subjects set forth in Section II of these regulations, and whether because of particular circumstances, there are other impacts that the EIS should address. Before beginning preparation of the EIS, the Applicant shall submit for Planning Board review, the credentials of those who will be doing the analysis, and preparation shall begin only after the Planning Board agrees that the credentials are satisfactory. All costs of the EIS shall be borne by the Applicant." After reading the EIS submitted and due consideration by the Planning Board we agreed to require independent analysis of the site and the proposal. A letter was written to Mr. Crocker on the 16th of December, (Her letters were entered into the record and are available for review in their entirety.) which indicated that it would be in his best interest as well as ours to have an independent analysis of the site. We indicated that all of this information would be provided to the MVC and our sister board in Chilmark as well. We mentioned a number of firms who might perform this service and asked for the applicant to respond in writing as to who would be satisfactory. Mr. Crocker thought that we had already hired a firm and I assured him that was not the case. At that point we discovered that he had already employed one of the firms that had been recommended to us and we asked him to send a letter indicating that he had concurred with one of our selections. To date we have not received that letter. On the 2nd of February a letter from the MVC asked the 2 Planning Boards to sit down and discuss some of the issues that need to be resolved resulting from that subdivision proposal. I sent back a letter on February 13th indicating that our Board, and I understood, the Chilmark Planning Board also has their schedules filled for some weeks and further stated "It is difficult for us to go further with recommendations when the only formal application currently before the West Tisbury Planning Board and the Martha's Vineyard Commission is for a proposal far less acceptable than one already denied. Over the past two years we have met numerous times with Mr. Crocker (both before and after he actually purchased the property) and have made many suggestions and recommendations. Although Mr. Crocker has said that he will incorporate several of these into his final proposal, they are not included in the current, formal application. Further after discussions with Mr. Crocker and Richard Barbini, we arranged to

have an independent analysis of the site and the proposal (see copy of letter to Mr. Crocker enclosed). Unfortunately Mr. Crocker has not yet signed the contract so that this analysis may begin. Now we understand that Mr. Crocker does not plan to sign this contract until the Boards indicates their approval of his proposal. Without the information provided by that analysis, it is impossible for us to proceed at this time." I have a copy of the proposed contract with I.E.P. signed by the West Tisbury Planning Board. This proposal is an extremely complex one with access problems, wetlands, endangered species habitats, the MVC DCPC district around Wascosim's Rock at the request of the Towns, and many other issues which all remain unresolved. Not the least of which is the overall definitive plan for the subdivisions in both Towns. It makes it impossible for the Boards to make recommendations as to the number of lots when this information is not available. To bring something to Mr. Geller's attention on March 7th the West Tisbury Town Clerk received a letter concerning the definitive plan that was filed with the West Tisbury Planning Board, the one for 16 lots, requesting that the clerk should immediately issue a certificate. The letter stated: "More than 60 days has expired since the constructive approval of the plan on January 3rd, 1989 and no action has been taken. Please be advised that if Mill Brook does not receive its definitive plan certified as requested within 10 days from the date hereof it will commence legal proceedings to comply the certification of the definitive plan." This is a slap in the face as far as I am concerned.

Mr. Douglas, West Tisbury Planning Board, stated he was going to discuss the 16 lot subdivision but he now feels it is unnecessary under the circumstances. We have only seen these 9 lot plans briefly on Monday night and our reaction at that time was that the Planning Board still thought there were too many lots based on the information that was available to us. We still have access problems. There is no point in listing all the problems again. We still aren't able to put a figure on what is acceptable to us but we think it is less than 9 and we are completely against that northern lot.

Ms. Sibley, Commissioner, asked Mr. Douglas, the West Tisbury Planning Board is not able to state a number of lots at this time because you feel you can't do that without the independent survey that is being held up? Mr. Douglas responded that is part of it, the other part is the access. We tried to get Chilmark to talk a little bit more distinctly about the reasonable number of lots they thought could be serviced through those roads. They said it was a very hard thing for them to do.

Mr. Ewing, Commissioner, Mr. Douglas did you say you wanted an independent EIS? Mr. Douglas responded we want an analysis of the EIS we got. Mr. Ewing asked if the applicant has indicated why he would not sign the contract? Ms. Jones responded that he indicated Monday night that he wanted the number of lots specified before he signed.

Mr. Young called on Mr. Crocker to address the issues raised by the West Tisbury Planning Board.



Mr. Crocker stated that the West Tisbury issues hinge on the approval of the study, the request from the Town Clerk, and the inability still to state a number of lots. Taking these one at a time. The approval for the study: my understanding is that the study requested is to study our EIS. They seem to think that it should be a study of the land, not a study of what we are proposing. What we would like to believe will be studied is a number that is significantly less than 16, hence all the EIS information will change at least 50% already by sheer numbers when we are changing from 16 lots to 9 lots. So all your traffic generation, your waste generation, all of your significant information, that we believe is to be studied to look at the impact of this development, is going to be halved. I am very uncomfortable spending money to have a 16 lot subdivision reviewed when we are negotiating in good faith towards a more comfortable number. I hope this clarifies why I feel uncomfortable on this issue. Regarding the request from the Town Clerk: I made a point on my trip here Monday, to tell Ms. Jones and that I had filled the same exact letter that I filled in the Town of Chilmark. So this was known before it was received by the Town Clerk. Then I went upstairs and put up the 9 lot subdivision plans for discussion. We are following through so there is consistency in everything that we do, as you would. Regarding inability to state the number of lots: This is really what it all comes down to. We have met time and time again. Half of us, both of us, all parties, and regardless of the number of studies that have been done, the only study requested now is the EIS on the West Tisbury side, no one has stated a number of lots they would consider appropriate. Several Chilmark traffic studies have been done, they changed the zoning to 5 acres from 3 acres to alleviate the possible overburdening of Tea Lane.

Mr. Young asked the West Tisbury Planning Board about the EIS regulations as stated in the Subdivision Regulations and if the Board can declare the application incomplete if they do not receive the EIS as required by the regulations? Ms. Jones responded yes that is true, however the EIS was received on the date of the application and there was certainly no concurrence on it by the West Tisbury Planning Board. Mr. Young said that we all understand that, however is it not true that in any subsequent submittal, we all understand there is going to be another submittal with the West Tisbury Planning Board, the PB could at that time state that an EIS prepared by an agencies agreed on by the board and the applicant must be a part of that submittal? Could that not be done? Ms. Jones responded that is correct. Mr. Young asked how long can negotiations continue before the board is in effect making a proposal to itself? He then stated that the ball is in Mr. Crocker's court now and he must make a submittal to the board. Mr. Crocker stated he would be willing to get the feedback on the 9 lot plan. Without them giving me a number I am proposing 9, we went from 16 to 13 to 11 and now to 9.

There was further discussion about the regulations concerning the EIS submitted by the applicant for the 16 lot plan. It was stated that the easiest way to solve this question is to have a new submittal and have a mutual agreed upon agency do the required EIS. There was also

discussion among the Commissioners on the EIS submitted by the applicant with the 16 lot plan and its validity based on the stipulation set forth in the regulations.

Mr. Evans, Commissioner, stated that the whole Commission is being asked to become involved in a cat and mouse game and this is upsetting. If the applicant wants to really win he can take the information everyone has been giving him and do a good job with it. If he wants to take his risks he can force lots next to wetlands, skirt lots around and see how it comes out. I think he should go back, do his work, make submittals and he can come back and we will take a look at it.

Mr. Young then moved on to Chilmark Town Board testimony, there was none. He then called on public testimony.

Mr. Skydell stated that some time ago the MVC asked that this project be submitted as a whole not in a piece meal fashion and here we are again with a piece meal project. Since it was stated that the Chilmark plan was not submitted due to pending litigation I think the applicant should either clear up or drop his litigation and submit a whole plan. Until that time I think everyone is wasting their time. This body has made the decision to look at the whole plan, yet here we are again, this could go on forever.

Mr. Dunkle stated that it is punitive for the applicant to be saying we are looking at a 9 lot plan when the only plan you have a legal right to consider and discuss, as Ms. Jones stated, is the 16 lot plan. Chapter 831 says you are authorized to operate on development permit applications submitted to you on DRI application forms. If something is not submitted to you, or referred to you, on a DRI application it is outside your prerogative to even think about it. I am not trying to imply that you cannot take testimony or make changes, only to point out that it is the 16 lot plan that is before you and you do not have the authority to operate on the 9 lot plan. Concerning controversy over the EIS survey and the number of lots the developer can't refuse information to the MVC or the Town which is required under state law. This developer and everyone else who come before this body must understand that he/she has to obey the laws and regulations of this Commission and the State applicable to all development permits. I don't believe that this or any other developer has the right to say I am not going to pay for a survey on 16 lots when we are looking at a 9 lot one. Who says we are looking at a 9 lots one, the 16 lot plan is the only formal submittal. If the developer doesn't want to pay for a survey on the 16 lot plan and doesn't want to provide adequate information for both towns to accurately access the plan on its merits let him withdraw it. If he has a 9 lot plan let him submit it and have it referred to the MVC as a DRI.

Marc Widdiss stated he wished Mr. Dunkle had said that an hour and a half ago.

Mr. Crocker requested a two week recess to try and work out some of the problems surfacing here today. and stated that he thinks people are having problems with the EIS not being performed, I think people are uncomfortable that the Chilmark side wasn't submitted and I think those are the major issues here.

Ms. Borer asked Mr. Crocker what he would hope to accomplish in this 2 week period? Mr. Crocker stated he would use the time to sit down with the West Tisbury Planning Board to work out an amicable solution to the EIS problem. Mr. Barbini who was one of the preparers of the current study has been hired by I.E.P. who were chosen to do the new EIS and that might provide a conflict.

Mr. Jason stated it would be more appropriate to withdraw this plan and submit a 9 lot plan in West Tisbury and a Chilmark plan.

Mr. Jason asked if he has a problem withdrawing this? What we have asked for is the entire plan at once. The applicant responded he certainly does. He hopes to submit a definitive Chilmark plan and if that does not happen in the 2 weeks he will ask to be dropped from the agenda.

Mr. Young requested some sort of resolution on the EIS pursuant to the West Tisbury requirements, to be a submittal that meets the requirements of their rules and regulations for an EIS. I am also going to require that the Chilmark definitive with an EIS pursuant to Chilmark requirements be submitted to Chilmark before we continue with the West Tisbury submittal. Furthermore that a new West Tisbury definitive plan be submitted. That doesn't mean you have to withdraw the 16 lot plan, what you can do is submit a revised plan to the West Tisbury Planning Board but it should be a new definitive plan. This would replace the 16 lot plan. Mr. Crocker asked about the time frame? Mr. Young responded that the time is held by the Commission until the public hearing is continued.

Mr. Morgan stated that we are working under an entirely different set of rules than normal DRIs that are before us and I am not sure we will be any further ahead if Mr. Crocker submits something to W. Tisbury and then to Chilmark because they are interrelated by access. I would think that until the Towns see each other's side I think we will be in the same position as we are now. Mr. Young stated it is up to the applicant at this point.

There was continued lengthy discussion whether to close this public hearing tonight and place it on the agenda for a possible vote next week or whether to continue the public hearing. There was a consensus agreement to close the public hearing and vote next week. It was then brought to the Commissioners attention that an applicants request for an extension has never before been denied. Based on that discussion it was decided to continue the public hearing until March 23rd at 8:30 p.m.

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After a short recess Mr. Early opened the special meeting of the Commission at 10:10 p.m. and proceeded with agenda items.

ITEM #1 - Chairman's Report

Mr. Early reminded Commissioners that the first Comprehensive Plan Advisory Committee meeting will be held here, 1 week from tonight at 6:30 p.m.

ITEM #2 - Old Business - There was none.

ITEM #3 - Minutes of March 2, 1989

It was motioned and seconded to approve the draft minutes as prepared. There was no discussion. This motion passed with no opposition, no abstentions. (Harney was in favor, Geller abstained.)

ITEM #4 - Committee Reports

Mr. Young, Chairman of LUPC, reported that they had met with the applicants for the Marshall/Lewis proposal which is a subdivision of 2 lots in West Tisbury. We also met with Mr. Crocker and members of the town boards as discussed during the public hearing. Next week we will meet with the applicants for the Aquinnah Shop Addition, the Surfside Inn DRI, and the Swan Neck DRI.

Mr. Morgan, County Commissioner, updated the Commission on pending legislation by saying that a hearing would be held on the 14th regarding the County borrowing bill, on the 22nd regarding the moped bills, room 136, and on the 30th regarding the Steamship Authority bills at 10:00 a.m. He stated that copies of these bills are available at the County Courthouse.

ITEM #5 - Discussion - Edgartown Great Pond DCPC Consideration

Mr. Ewing, Chairman of the Edgartown Great Pond DCPC Subcommittee, stated they had met to discuss the rationale and boundaries of the nomination. They have decided to wait one week to make their recommendation so they can get some more information. We will meet again Monday the 13th at 6:30 p.m.

ITEM #5 - Discussion - Gay Head Cliff Area DCPC Consideration

Mr. Fischer, Chairman of the Gay Head Cliff Area DCPC Subcommittee, stated that they had met tonight and Mr. Madison, Gay Head Selectman, and Mr. Simmons, Gay Head Planning Board, were in attendance. Mr. Madison stated that the selectmen were in favor of this consideration and did propose an amendment to the boundaries of 3 lots indicated on the wall display. He predicted the possibility that this building site may be before him soon and felt it would be wise to include it. The subcommittee has agreed to recommend we consider this nomination at this time.

Ms. Borer, Executive Director, reviewed the basic information in the Commissioners packets (available in the DCPC or Meeting files). She used aerial photos and wall maps to depict the boundaries and the overlay of the Coastal, Island Road and Moshup Trail DCPCs. She also showed land uses and municipal and state ownership of the proposed area.

Mr. Early asked if the subcommittee has recommended that the amendments to the boundaries be included? Mr. Fischer responded yes.

There were questions about the cliff area. Ms. Borer stated that the Cliffs are exempt from our jurisdiction and are listed by the Dept. of the Interior as a Registered National Natural Landmark.

There was discussion about the proposed amended boundaries and if any other configurations had been considered other than these 3 lots being added. Mr. Widdiss was asked to comment on the Gay Head discussions to date.

Mr. Widdiss stated that he is concerned with the purpose of the DCPC. If it is to protect the cliffs why are the 3 lots being added. The Moshup Trail DCPC deals with the visual impacts of the overall area. As far as this decreasing the ability to develop these lots, I am not sure it is easy now. Strict adherence to the Zoning By-Laws would protect the Cliffs adequately. It may be worthwhile to put off development for a year, I'm not sure.

When there was no further discussion, Mr. Early moved on to the next agenda item.

ITEM #6 - Possible Vote - Consideration of Gay Head Cliffs Area DCPC.

It was motioned and seconded to consider the DCPC as presented without the amendments to the boundaries. The boundaries were read for the record. There was no discussion on this motion. It passed with a vote of 13 in favor, no opposition, no abstentions. (Geller and Harney were in favor.)

ITEM #6 - Possible Vote - Written Decision, Alice Bourne DRI Modification, Town of Edgartown.

It was motioned and seconded to approve the written decision as prepared. There was no discussion. The motion carried with a vote of 13 in favor, no opposition, no abstentions. (Harney was in favor, Geller abstained).

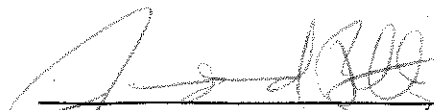
ITEM #7 - New Business - There was none.

ITEM #8 - Correspondence


Ms. Borer read an announcement from the Commission's counsel, Choate, Hall & Stewart, stating that James S. Hoyte, former State Secretary of Environmental Affairs, has become of counsel to the firm in the real estate department and the environmental law/land use practice group.

The meeting was adjourned at 10:35 p.m.

ATTEST

  
\_\_\_\_\_  
J. Woodward Filley,  
Vice Chairman

3/23/89  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
James Young,  
Clerk/Treasurer

3/23/89  
\_\_\_\_\_  
Date

Attendance:

Present: Bryant, Colebrook, Early\*, Eber, Evans, Ewing, Filley, Fischer, Jason, Lee, Morgan, Sibley, Young, Geller, Harney.

Absent: Medeiros, Scott, Wey, Delaney, McCavitt, Allen.

\* Mr. Early was not present at the table during the Crocker/Mill Brook Public Hearing.